



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 724

IN THE MATTER OF AMY J. FRIPP

Appearances: Stephen P. Fauteux, Esq.
Counsel for Petitioner

Virginia W. Connelly, Esq.
Counsel for Respondent

Commissioners: Daher, Ch., Maclin, Kempthorne and Veator^{1/}

Presiding Officer: Commissioner M. Tracey Maclin

DECISION AND ORDER

I. Background & Procedural History

Between 1999 and November 11, 2005, Respondent Amy J. Fripp (Fripp) was a state employee employed as a paralegal at the Department of Housing and Community Development (DHCD). On July 18, 2003, Fripp purchased from a private seller an affordable housing condominium unit (Unit) in the Town of Lincoln (Town) pursuant to the Homeownership Opportunity Program (HOP). HOP is a DHCD program that assists low and moderate income households in buying affordable homes at a discounted price. As part of her purchase and as required by HOP, Fripp signed a deed rider restricting the resale of the Unit.

On June 28, 2005, Petitioner initiated these proceedings by issuing an Order to Show Cause (OTSC) under the Commission's Rules of Practice and Procedure.^{2/} The OTSC alleged that Fripp violated G.L. c. 268A, § 7 when she purchased the Unit pursuant to HOP while she was a DHCD employee. The OTSC further alleged that the relevant contract, the quitclaim deed, of which the deed rider was specifically made a part, was made by DHCD and was one in which the Commonwealth and/or DHCD was an interested party. The OTSC alleged that when Fripp closed on the Unit, she had knowledge or reason to know of her financial interest in a contract made by a state agency in violation of § 7.

On July 20, 2005, Fripp filed an Answer to the OTSC. In her Answer, she admitted a number of the factual allegations in the OTSC, but otherwise denied that she violated G.L. c. 268A, § 7.

Subsequent to a pre-hearing conference on September 14, 2005, the parties submitted motions for summary decision, both of which were denied. After a final pre-hearing conference on September 26, 2006, the parties submitted Stipulations as to facts and documents.

An evidentiary hearing was held on November 1, 2006.^{3/} At the hearing, the parties made opening statements and introduced evidence through witnesses and exhibits.

The parties submitted briefs on March 9, 2007.^{4/} Both parties presented closing arguments to the Commission on April 11, 2007.^{5/}

The Commission began its deliberations in executive session on this matter on April 11, 2007.^{6/} In rendering this Decision and Order, each undersigned member of the Commission has considered the testimony, the evidence in the public record, including the hearing transcript and the arguments of the parties.

II. The Law

Section 7 of G.L. c. 268A, prohibits a state employee from having “a financial interest, directly or indirectly, in a contract made by a state agency, in which the commonwealth or a state agency is an interested party, of which interest he has knowledge or reason to know.” In adjudicatory proceedings before the Commission, the burden of proof is on Petitioner, which must prove its case by a preponderance of the evidence. 930 CMR 1.01(9)(m)(2). The weight to be attached to any evidence in the record rests within the sound discretion of the Commission. 930 CMR 1.01(9)(1)(3).

III. Decision

Based on its weighing of the evidence in the record in this matter, the Commission concludes that the Petitioner did not prove its case against Fripp by a preponderance of the evidence. Petitioner did not prove that the deed rider is a contract made by DHCD (or another state agency), in which DHCD or the Commonwealth is an interested party. More specifically, to the extent that Petitioner argued that DHCD made the contract, *i.e.*, the deed rider, because it was signed by its agent, the Lincoln Foundation, Petitioner failed to prove by a preponderance of the evidence, the agency relationship it alleged to exist among DHCD, the Town and the Lincoln Foundation. Given that the relationship among those entities remains unclear, Petitioner has failed to prove by a preponderance of the evidence that there was a contract made by a state agency in which the commonwealth or a state agency is an interested party in violation of G.L. c. 268A, § 7, as alleged in the OTSC.

IV. Order

Because Petitioner did not meet its burden of proving its case by a preponderance of the evidence, the Commission hereby ORDERS that this matter is DISMISSED.

DATE AUTHORIZED: April 25, 2007

DATE ISSUED: April 30, 2007

//ss//
E. George Daher, Chairman

//ss//
M. Tracey Maclin

//ss//
Jeanne M. Kempthorne

//ss//
David L. Veator

^{1/} Commissioner Kane was not present for the deliberations and did not vote on this matter.

^{2/} 930 CMR 1.00 *et seq.*

^{3/} *Id.* at 1.01(9)(b).

^{4/} *Id.* at 1.01(9)(k).

^{5/} *Id.* at 1.01(9)(e)(5).

^{6/} G.L. c. 268B, § 4(i); 930 CMR 1.01(9)(m)(1).